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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,866	09/12/2000	Scott J. Jones	GOLDENH.001C1	2541
20995 7590 01/13/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER PASS, NATALIE	
			ART UNIT 3686	PAPER NUMBER
			NOTIFICATION DATE 01/13/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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OFFICE ACTION

Cancellation of Non-Appealed Claims

1. This communication is in response to the Appeal Brief and Information Disclosure Statement filed November 2, 2009.
2. The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are either expressly withdrawn, or else are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. See also MPEP § 1215.03 (8th ed. Rev. 7 Sept 2008).
3. In the Appeal Brief filed November 2, 2009 Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for all previously pending claims, claims 2-29.
4. The rejected claims that have not been appealed, thus which have been deemed expressly withdrawn, are claims 20-29.
5. The rejected claims that have not been argued in support of patentability, thus which have been deemed implicitly withdrawn, are claims 3-8, 11-14, and 16-19.

6. Therefore, in accordance with *Ex parte Ghuman* and Board instructions in this matter, claims 3-8, 11-14, and 16-29 are hereby cancelled for being non-appealed as being either explicitly or implicitly withdrawn from appeal by appellant.

7. Claims 2, 9, 10, and 15 have been properly appealed and argued in support of patentability by appellant, thus remain pending and appealed in the instant matter.

Information Disclosure Statement

8. The information disclosure statement filed 2 November 2009 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

(A) A statement under this section must state either:

(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass, whose telephone number is (571) 272-6774. The examiner can normally be reached Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/N. A. P./
Examiner, Art Unit 3686
January 4, 2010

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686